IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: AVANDIA MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY

LITIGATION

MDL No. 1871 07-md-01871

THIS DOCUMENT APPLIES TO: ALL ACTIONS

ALL ACTIONS

PRETRIAL ORDER NO. 74

AND NOW, this 9th day of September 2009, upon consideration of the Seventh Report and Recommendation of the Special Master as to Privilege Guidelines ("R&R #7") [Doc. No. 431], which propose the adoption of a set of comprehensive guidelines regarding the applicability of the attorney client privilege and/or work product protection herein, Defendant SmithKline Beecham Corporation d/b/a GlaxoSmithKline's Motion Appealing R&R #7 [Doc. No. 447], Plaintiffs' Response in Opposition [Doc. No. 448], Defendant's Reply [Doc. No. 457] and Plaintiffs' Sur-reply [Doc. No. 467], and oral argument held thereon, and pursuant to this Court's power pursuant to 28 U.S.C. § 636(b)(1)(C) to make a de novo determination of proposed recommendations to which objections are made, it is hereby **ORDERED** that Defendant's Motion is **GRANTED IN PART AND DENIED IN PART.** It is granted in that the Court will not approve and adopt the recommendations contained R&R #7, finding them inapt for this litigation. The Motion is denied in that the specific relief requested by Defendant will not be granted. Instead, the parties are **DIRECTED** to revisit the underlying discovery dispute with the Special Discovery Master forthwith, and in any event within ten (10) days of the date of the filing of this Order. If any dispute remains after such conference, the Special Discovery Master is expected to promptly file a report and

recommendation stating his proposed findings and rulings with respect to the same.

It is so **ORDERED.**

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.